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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Case No. 1:19-cr-227

v. Plaintiff,

1:23-cr-37

(LJV)

PETER GERACE, JR.,

December 16, 2024

Defendant.

TRANSCRIPT EXCERPT - EXAMINATION OF BRIAN BURNS - DAY 1
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES: TRINI E. ROSS, UNITED STATES ATTORNEY

BY: JOSEPH M. TRIPPI, ESQ.

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PRESENT:

KAREN A. CHAMPOUX, USA PARALEGAL
BRIAN A. BURNS, FBI SPECIAL AGENT
MARILYN K. HALLIDAY, HSI SPECIAL AGENT
OLIVIA A. PROIA, J.D., PARALEGAL

LAW CLERK:

REBECCA FABIAN IZZO, ESQ.

COURT CLERK:

COLLEEN M. DEMMA

REPORTER:

ANN MEISSNER SAWYER, FCRR, RPR, CRR

Robert H. Jackson Courthouse
2 Niagara Square Buffalo, New York 14202
Ann_Sawyer@nywd.uscourts.gov

05:03PM 1 (Excerpt commenced at 5:03 p.m.)

05:03PM 2 (Jury seated at 5:03 p.m.)

05:03PM 3 **THE COURT:** The record will reflect all our jurors
05:03PM 4 are present.

05:03PM 5 The government may call its next witness.

05:03PM 6 **MR. TRIPI:** We call Special Agent Brian Burns of the
05:03PM 7 FBI, Your Honor.

05:03PM 8

05:03PM 9 **B R I A N B U R N S**, having been duly called and sworn,
05:04PM 10 testified as follows:

05:04PM 11 **MR. TRIPI:** May I proceed, Judge?

05:04PM 12 **THE COURT:** You may.

05:04PM 13

05:04PM 14 **DIRECT EXAMINATION BY MR. TRIPI:**

05:04PM 15 Q. Good afternoon, Special Agent Burns.

05:04PM 16 A. Good afternoon.

05:04PM 17 Q. Special Agent Burns, can you tell the jury a little bit
05:04PM 18 about where you're from, and your educational background,
05:04PM 19 please?

05:04PM 20 A. I'm born in Buffalo, raised predominantly in Tonawanda,
05:04PM 21 and then moved back to Buffalo and joined the FBI.

05:04PM 22 Q. All right. Describe your educational background for the
05:04PM 23 jury.

05:04PM 24 A. I have a bachelor's of science in pharmacy. I was
05:04PM 25 actually a licensed pharmacist in the State of New York, and

05:04PM 1 I still am licensed, I don't practice.

05:04PM 2 And then I received a masters in business administration.

05:04PM 3 Q. And where did you get those degrees from?

05:04PM 4 A. Both from the University of Buffalo.

05:04PM 5 Q. How long did you work as a licensed pharmacist?

05:04PM 6 A. From '94 until about '98.

05:04PM 7 Q. After that, and around 1998, did you begin the process of

05:04PM 8 becoming an FBI agent?

05:05PM 9 A. Yeah. I applied in '97. There was a series of steps in

05:05PM 10 there. And then I entered on duty October 26th of 1998.

05:05PM 11 Q. Very briefly, describe the process of becoming an FBI

05:05PM 12 agent for the jury. I think you might be the first FBI agent

05:05PM 13 who's actually -- oh, second, sorry about that.

05:05PM 14 A. It's a -- it's -- back then it was four months. You

05:05PM 15 actually stay in kind of like a dorm setting at the Marine

05:05PM 16 base at Quantico, Virginia. And really they teach you just

05:05PM 17 about everything that you need to know from, you know, how

05:05PM 18 to -- constitutional law, how to effect an arrest, how to

05:05PM 19 execute a search warrant, interview techniques, the different

05:05PM 20 crime prob -- the different -- both foreign and

05:05PM 21 counterintelligence, criminal statutes, surveillance, just

05:05PM 22 really all the different tools that you're -- you -- you need

05:05PM 23 to successfully become an FBI agent.

05:06PM 24 Q. After you -- is that academy in Quantico, Virginia?

05:06PM 25 A. Yes, it is.

05:06PM 1 Q. After you graduated from the FBI Academy in Quantico, did
05:06PM 2 you receive your first assignment in the field somewhere?

05:06PM 3 A. Yes, I was assigned to Memphis, Tennessee, the FBI office
05:06PM 4 there.

05:06PM 5 Q. How long were you an FBI agent in Memphis, Tennessee?

05:06PM 6 A. From '99 until about 2008. I had some trials, so I kind
05:06PM 7 of went back and forth for a couple years.

05:06PM 8 Q. So almost ten years?

05:06PM 9 A. About ten years.

05:06PM 10 Q. What types of cases did you work when you were in Memphis
05:06PM 11 primarily?

05:06PM 12 A. When I initially started, I worked predominantly
05:06PM 13 narcotics investigations. And then I kind of segued to
05:06PM 14 corruption-type matters, particularly like law enforcement
05:06PM 15 corruption. Law enforcement would also be involved. Usually
05:06PM 16 they related to narcotics. And then I kind of started
05:06PM 17 working public officials, elected officials. And I've done
05:06PM 18 some frauds along the way, and a couple civil rights cases,

05:07PM 19 but --

05:07PM 20 Q. All right. After -- after that stint in Memphis working
05:07PM 21 narcotics and corruption-related cases, did you make your way
05:07PM 22 back to Buffalo?

05:07PM 23 A. Yes. I had an opportunity to get back home. So in 1998,
05:07PM 24 I actually started on January 1999, I started in the -- with
05:07PM 25 the Buffalo office, but out of the Niagara Falls they had a

05:07PM 1 small office.

05:07PM 2 Q. You're in the '90s again. Did you mean to say 2000s?

05:07PM 3 A. 2000, sorry.

05:07PM 4 Q. Please, go ahead.

05:07PM 5 A. Yeah, sorry. So it was 2008 I got back. And I was

05:07PM 6 initially assigned to the Niagara Falls resident agency, it's

05:07PM 7 a small office up in the Falls.

05:07PM 8 Q. Does that exist anymore?

05:07PM 9 A. No, they closed it down as the population of Niagara
05:07PM 10 Falls has gotten smaller.

05:07PM 11 Q. At that point, did you move to the Buffalo office here?

05:07PM 12 A. Yes, I did.

05:07PM 13 Q. What types of cases have you been assigned to work on
05:08PM 14 since you returned to, we'll call it, Niagara Falls/Buffalo
05:08PM 15 area?

05:08PM 16 A. Predominantly I've been on the white collar squad the
05:08PM 17 whole time, and predominantly working public corruption
05:08PM 18 matters.

05:08PM 19 Q. Not to fast forward too much, but is that what ultimately
05:08PM 20 gets you involved in this case as it related to Special Agent
05:08PM 21 Joseph Bongiovanni?

05:08PM 22 A. Yes, that's why I was -- ended up here.

05:08PM 23 Q. Throughout your work in Buffalo and Memphis, have many of
05:08PM 24 your corruption cases that you've investigated still had some
05:08PM 25 type of nexus to narcotics in the kinds of cases you worked

05:08PM 1 in the beginning of your career?

05:08PM 2 A. Yeah. A lot of the corruption cases I had involved with
05:08PM 3 narcotics and law enforcement officers.

05:08PM 4 Q. Other than your sort of stint in Quantico for training
05:08PM 5 and your about ten years in Memphis, Tennessee, do you
05:08PM 6 consider yourself a lifelong member of this community?

05:08PM 7 A. Yes. I've always been a Buffalo guy. I was happy to get
05:08PM 8 back home.

05:08PM 9 Q. Sometime in 2019, did you become involved in the public
05:09PM 10 corruption investigation as it related to former DEA Special
05:09PM 11 Agent Joseph Bongiovanni?

05:09PM 12 A. Yes, I did.

05:09PM 13 Q. Approximately when did you start becoming involved in
05:09PM 14 that?

05:09PM 15 A. In January of 2019, I was -- we had a briefing at the
05:09PM 16 United States Attorney's Office.

05:09PM 17 Q. And by "briefing," is that just sort of a meeting where
05:09PM 18 you began to familiarize yourself with what had happened up
05:09PM 19 to that point?

05:09PM 20 A. Yeah, I was requested to attend that along with our
05:09PM 21 executive management at my office, a couple -- another agent,
05:09PM 22 a couple agents on my squad, our supervisor, and we met with
05:09PM 23 HSI, I met with executive management from the U.S. Attorney,
05:09PM 24 first assistant, so executive management from the U.S.
05:09PM 25 Attorney's Office. And then we were briefed up from our HSI

05:09PM 1 partners.

05:09PM 2 Q. At that point, was Homeland Security, HSI Investigations,
05:09PM 3 essentially the lead agency that was working with the
05:10PM 4 Department of Justice Office of Inspector General up to that
05:10PM 5 point?

05:10PM 6 A. Up to that point, yes.

05:10PM 7 Q. Now, locally, does typically the FBI investigate public
05:10PM 8 corruption?

05:10PM 9 A. It's kind of one of our first criminal priority.

05:10PM 10 Q. So that's when you were basically brought in?

05:10PM 11 A. Yeah, it made sense to kind of -- for us to get involved.

05:10PM 12 Q. I'd like to fast forward to June of -- June 6th of 2019.

05:10PM 13 By that point in time, had agents you were working with with
05:10PM 14 HSI, specifically Special Agent Curtis Ryan, obtained a
05:10PM 15 search warrant -- federal search warrant to search the
05:10PM 16 residence of Joseph Bongiovanni?

05:10PM 17 A. Yes, they had.

05:10PM 18 Q. Did you participate in the search warrant executed at
05:10PM 19 Bongiovanni's house that day?

05:10PM 20 A. Yes, I did.

05:10PM 21 Q. Other than sort of getting briefed on what had been done,
05:10PM 22 was that essentially your first investigative actions in the
05:10PM 23 case?

05:10PM 24 A. Yeah, it was the first kind of, like, more involvement in
05:10PM 25 the case. The other part had been just background.

05:11PM 1 Q. Okay. My question might have been poorly phrased, but
05:11PM 2 was it the first large event you were present for?

05:11PM 3 A. Yes, first significant investigative activity involving
05:11PM 4 this case that I was a part of.

05:11PM 5 Q. Were there other agents who were leading the
05:11PM 6 investigation to that point? Did it include Special Agents
05:11PM 7 Curtis Ryan and Marilyn Halliday with HSI, and Dave Carpenter
05:11PM 8 from DOJ OIG at that time?

05:11PM 9 A. Yes.

05:11PM 10 Q. At that search warrant, what was your role?

05:11PM 11 A. I did some inter -- I interviewed Joseph Bongiovanni's
05:11PM 12 wife, Lindsay. Their son was present. I did do a tertiary
05:11PM 13 search, but I was not part of the search team. I was
05:11PM 14 predominantly interviewing Mrs. Bongiovanni.

05:11PM 15 Q. You were in and out of the house?

05:11PM 16 A. Yes.

05:11PM 17 Q. You were in and out of various rooms in the house?

05:11PM 18 A. Yes. But I wasn't the actual person looking and
05:11PM 19 searching, so I spoke to her outside, and we spoke inside.
05:11PM 20 She directed me to some areas in the house or some of the
05:12PM 21 evidence that would have been seized pursuant to the search
05:12PM 22 warrant. So she helped identify --

05:12PM 23 Q. Generally, what were Special Agents Ryan and Carpenter
05:12PM 24 doing?

05:12PM 25 A. They were sitting at the kitchen table interviewing

05:12PM 1 Mr. --

05:12PM 2 Q. Dining room table?

05:12PM 3 A. Kind of dining room/kitchen, sort of over to the right.

05:12PM 4 Q. Open floor plan?

05:12PM 5 A. Open floor plan, so I -- yeah. So there was a table,
05:12PM 6 they were both sitting at it, and they were both interviewing
05:12PM 7 Mr. Bongiovanni.

05:12PM 8 Q. Were you at -- were you present at the location when a
05:12PM 9 DEA evidence box was recovered in the basement --

05:12PM 10 **MR. FOTI:** Objection.

05:12PM 11 **BY MR. TRIPI:**

05:12PM 12 Q. -- and then brought upstairs at some point where Special
05:12PM 13 Agent Ryan and Carpenter were interviewing Bongiovanni?

05:12PM 14 A. Yes.

05:12PM 15 **MR. FOTI:** Objection. Can we approach?

05:12PM 16 **THE COURT:** Yeah, come on up.

05:12PM 17 (Sidebar discussion held on the record.)

05:12PM 18 **MR. FOTI:** I will withdraw the objection to that
05:12PM 19 specific question, but I think where it's going is something
05:12PM 20 that we've already -- I could be wrong, but I think it's going
05:13PM 21 somewhere that we've already addressed this with an earlier
05:13PM 22 witness. The government wanted to get into the contents of
05:13PM 23 that box, which primarily relates to the Serio conspiracy.

05:13PM 24 The Court had denied --

05:13PM 25 **THE COURT:** And I let the government get into some

05:13PM 1 contents and --

05:13PM 2 **MR. TRIPI:** Yeah, in my -- in my December 3rd
05:13PM 3 briefing, I circled back, and I've identified two documents
05:13PM 4 that I want to get into evidence through this witness. And
05:13PM 5 one is a DARTS email that links to -- it's one email thread,
05:13PM 6 several pages, it links to both Anthony Gerace and Hot Dog,
05:13PM 7 which I think I've linked up in this trial.

05:13PM 8 And the other document is OCDETF report that links up
05:13PM 9 to Frank Tripi, who I think I've linked up in this trial and
05:13PM 10 will further, because he'll explain the phone records.

05:13PM 11 So those are the only two. I've submarked them.
05:13PM 12 I've sent those over.

05:13PM 13 So, one of the concerns was all the documents. I've
05:13PM 14 isolated two.

05:13PM 15 **THE COURT:** Yeah, I understand.

05:14PM 16 **MR. TRIPI:** Okay. So --

05:14PM 17 **MR. FOTI:** I -- I guess I don't really have a
05:14PM 18 strong -- even though I do have an argument against Anthony
05:14PM 19 Gerace, I understand that there's been testimony about that.
05:14PM 20 I think Frank Tripi and Hot Dog, it really comes down to their
05:14PM 21 contacts in both the phones.

05:14PM 22 **THE COURT:** The Anthony Gerace document is the same
05:14PM 23 as the --

05:14PM 24 **MR. TRIPI:** It's in the same, yeah, they're both on
05:14PM 25 one document. It might be like a four- or five-page document.

05:14PM 1 **THE COURT:** Frank Tripi, it's the OCDETF.

05:14PM 2 **MR. TRIPI:** It's the OCDETF form, yeah.

05:14PM 3 **THE COURT:** Yes, it's an organized --

05:14PM 4 **MR. TRIPI:** Yes.

05:14PM 5 **THE COURT:** -- crime form, you certainly can --

05:14PM 6 **MR. TRIPI:** And it is charged overt acts.

05:14PM 7 **THE COURT:** Those two things, but that's it.

05:14PM 8 **MR. TRIPI:** That's all I'm going for.

05:14PM 9 **MR. FOTI:** Okay.

05:14PM 10 (End of sidebar discussion.)

05:14PM 11 **MR. FOTI:** I'll withdraw the objection, Judge.

05:14PM 12 **THE COURT:** Okay. Go ahead, next question.

05:14PM 13 Read it back, Ann.

05:14PM 14 (The above-requested testimony was then read by the

05:15PM 15 reporter.)

05:15PM 16 **MR. TRIPI:** Okay. I think you answered the question,

05:15PM 17 so I'll move on to the next question.

05:15PM 18 **BY MR. TRIPI:**

05:15PM 19 Q. And as part of your involvement as a member of the

05:15PM 20 investigative team, you have reviewed that box as well as the

05:15PM 21 contents of it several times?

05:15PM 22 A. Yes, I have.

05:15PM 23 Q. And just for record purposes, the box and the file inside

05:15PM 24 the box is Exhibit Number 100; is that correct?

05:15PM 25 A. The box is 100, correct.

05:15PM 1 Q. The file in the box --

05:15PM 2 A. Correct.

05:15PM 3 Q. -- is -- the box is 100, the file in the box is 100A?

05:15PM 4 A. Correct. 100, and then 100A, the Redweld.

05:15PM 5 Q. Have you reviewed every document inside that Redweld
05:16PM 6 folder that is Exhibit 100A?

05:16PM 7 A. Yes, I have, extensively.

05:16PM 8 Q. Now I want to show you two documents, one at a time.

05:16PM 9 **MR. TRIPI:** For the witness only, Ms. Champoux, can
05:16PM 10 we pull up what I've marked as 100A.1-1?

05:16PM 11 And, Ms. Champoux, when the witness indicates, can we
05:16PM 12 just scroll through each page?

05:16PM 13 **BY MR. TRIPI:**

05:16PM 14 Q. And, Mr. Burns, once you've looked at every page, signal
05:16PM 15 to me, and I'll ask more questions, okay?

05:16PM 16 A. Can you move up?

05:16PM 17 Q. I'm also going to hand it up for you if that's faster for
05:16PM 18 you.

05:16PM 19 A. That might be easier.

05:16PM 20 Q. I'll hand up 100A.1-1.

05:17PM 21 A. That was a document that was contained -- one of the many
05:17PM 22 documents contained in that Redweld folder.

05:17PM 23 Q. Specifically, do you recognize that to be a DARTS
05:17PM 24 deconfliction email that was contained in the file folder
05:17PM 25 that was marked as 100A?

05:17PM 1 A. Yes, it is.

05:17PM 2 Q. Is that a fair and accurate copy of one of those
05:17PM 3 documents that was in the file?

05:17PM 4 A. That is.

05:17PM 5 **MR. TRIPI:** The government offers 100A.1-1,
05:17PM 6 Your Honor.

05:17PM 7 **MR. FOTI:** No objection.

05:18PM 8 **THE COURT:** Received without objection.

05:18PM 9 **(GOV Exhibit 100A.1-1 was received in evidence.)**

05:18PM 10 **BY MR. TRIPI:**

05:18PM 11 Q. I'd like to ask you just a couple questions about this
05:18PM 12 document now, okay?

05:18PM 13 A. Certainly.

05:18PM 14 Q. When you reviewed this document, do you understand it to
05:18PM 15 be a DARTS deconfliction email?

05:18PM 16 A. Yes, it is.

05:18PM 17 Q. And is DARTS a DEA deconfliction database?

05:18PM 18 A. Yes, it deconflicts based on entries into their system.

05:18PM 19 Q. Does the FBI have a similar system that also operates the
05:18PM 20 same way?

05:18PM 21 A. Similar. It's not called DARTS, but there's a telephone
05:18PM 22 application system.

05:18PM 23 Q. And this particular document that you reviewed, are there
05:18PM 24 references that have indications pertaining to Anthony
05:18PM 25 Gerace, as well as a phone number pertaining to Paul

05:18PM 1 Francoforte?

05:18PM 2 A. Anthony Gerace, I see a red flag.

05:19PM 3 Q. What page is that, please?

05:19PM 4 A. The Anthony Gerace?

05:19PM 5 Q. Yes.

05:19PM 6 A. It's referenced on page 6 of this document, but it would

05:19PM 7 actually be page -- front and back -- 3 of the exhibit.

05:19PM 8 Q. Okay.

05:19PM 9 A. Do you want me to look for Mr. Bifulco now?

05:19PM 10 Q. What's the printed number -- page number at the bottom?

05:19PM 11 A. 6.

05:19PM 12 **MR. TRIPI:** Okay. Go to page 6, Ms. Champoux.

05:19PM 13 **BY MR. TRIPI:**

05:19PM 14 Q. Is this a document that's generated from an email system?

05:19PM 15 A. That's correct.

05:19PM 16 Q. So in order to have a physical copy, it would need to be

05:19PM 17 printed?

05:19PM 18 A. Yes, you have to print it out. It's, as you can see on

05:19PM 19 the first page, it's an email.

05:19PM 20 Q. Now, looking at your screen, can you show us the

05:19PM 21 reference to Anthony Gerace on this deconfliction document?

05:20PM 22 A. Sure. I think there's several, but this is the one I'm

05:20PM 23 looking at on this page.

05:20PM 24 Q. And can you just walk them through the -- that portion of

05:20PM 25 the document, please?

05:20PM 1 A. Right. So Anthony Casullo, sorry, I forgot.

05:20PM 2 So you can see that Anthony Casullo was the DEA agent,
05:20PM 3 had entered this into the -- his system. And the cases, it
05:20PM 4 has his case number there, the C2-17-0023, and then numbers
05:20PM 5 in contact with oxycodone trafficker Anthony Gerace, so that
05:20PM 6 would be an email to the individuals on the first page, and
05:20PM 7 basically deconflicting, so they'll all be aware of that
05:20PM 8 number and how it tied into the various DEA cases.

05:20PM 9 Q. So in layman's terms, is -- does that email indicate that
05:21PM 10 a phone number Anthony Casullo was investigating was in
05:21PM 11 contact with a phone number associated with Anthony Gerace?

05:21PM 12 A. Yes, it does.

05:21PM 13 Q. And this was a document located in Defendant
05:21PM 14 Bongiovanni's basement?

05:21PM 15 A. That's correct.

05:21PM 16 **MR. TRIPI:** Now, if we can just briefly,
05:21PM 17 Ms. Champoux, pull up Exhibit 310AT.

05:21PM 18 **THE COURT:** In evidence?

05:21PM 19 **MR. TRIPI:** It is in evidence, yes, sorry.

05:21PM 20 And could, Ms. Champoux, could you advance it to
05:21PM 21 record entry number 16, please?

05:22PM 22 **BY MR. TRIPI:**

05:22PM 23 Q. Okay. Generally in Exhibit 310AT, are we looking at
05:22PM 24 contacts that were extracted from Mr. Gerace's phone?

05:22PM 25 A. Yes, pursuant to the border search.

05:22PM 1 Q. And I should be clear, that would be Peter Gerace's
05:22PM 2 phone?

05:22PM 3 A. That's Peter Gerace's phone.

05:22PM 4 Q. At record number 16, does he have a contact for a person
05:22PM 5 Pauly, Hot Dog?

05:22PM 6 A. Yes, he does.

05:22PM 7 Q. And what is the phone number there?

05:22PM 8 A. 716-866-2687.

05:22PM 9 **MR. TRIPI:** Okay. Now, Ms. Champoux, if we could
05:22PM 10 toggle back over to Exhibit 100A.1-1.

05:22PM 11 **BY MR. TRIPI:**

05:22PM 12 Q. That same exhibit, is there a deconfliction regarding
05:22PM 13 that phone number that you just associated or just referenced
05:22PM 14 in Mr. Gerace -- Peter Gerace's phone contacts for Hot Dog?

05:22PM 15 **MR. TRIPI:** Ms. Champoux, can we scroll down while
05:22PM 16 he's looking for that? Here we go, stop here.

05:22PM 17 **BY MR. TRIPI:**

05:23PM 18 Q. Look at page number 2.

05:23PM 19 A. Certainly. Yes. That's the telephone number for Paul
05:23PM 20 Francoforte, a/k/a Hot Dog. That was contained as a contact
05:23PM 21 in Mr. Gerace's cell phone extraction.

05:23PM 22 Q. And so do you see that number in the sort of upper
05:23PM 23 left-hand corner --

05:23PM 24 A. Yes.

05:23PM 25 Q. -- of the box?

05:23PM 1 A. Yep.

05:23PM 2 Q. Right there.

05:23PM 3 A. I'm familiar with that number.

05:23PM 4 Q. And does that indicate that that number was part of

05:23PM 5 Mr. Casullo's investigation, and it created a deconfliction

05:23PM 6 notice based upon its contact with a file Mr. Bongiovanni had

05:23PM 7 in the middle there?

05:23PM 8 A. Yes.

05:23PM 9 Q. And what file number is that?

05:23PM 10 A. C2-13-0026.

05:23PM 11 Q. And is that the number of the file that was recovered in

05:23PM 12 the basement?

05:23PM 13 A. Yes, it is.

05:24PM 14 **MR. TRIPI:** And let's go back to the first page of
05:24PM 15 this exhibit, Ms. Champoux.

05:24PM 16 **BY MR. TRIPI:**

05:24PM 17 Q. Looking at the header of the document, the "to" section.

05:24PM 18 Do you see that Mr. Bongiovanni received this email?

05:24PM 19 A. Yes, along with a number of other DEA personnel. Joseph
05:24PM 20 Bongiovanni's on that "to" line.

05:24PM 21 Q. Can you circle Mr. Bongiovanni's name? It's just a
05:24PM 22 temporary highlight.

05:24PM 23 And do you see Mr. Casullo's name?

05:24PM 24 A. Yes.

05:24PM 25 Q. Okay. Does that indicate they both received this email?

05:24PM 1 A. That's correct. Along with the other individual, or
05:24PM 2 other DEA personnel.

05:24PM 3 Q. Right. Everyone in that "to" section --

05:24PM 4 A. Would get this email, yes.

05:24PM 5 Q. Now, looking at page 1, can you just read the section --
05:24PM 6 I have sort of indicated, beginning in blue there?

05:24PM 7 A. An investigative overlap was created by agent POC, point
05:25PM 8 of contact, Anthony J. Casullo. And then a telephone number.

05:25PM 9 Sean M. Hoerner on 1/7/2019, 10:45:35 under case number C2 --

05:25PM 10 C2 --

05:25PM 11 **MR. TRIPI:** Can you move the cursor, Ms. Champoux?

05:25PM 12 **THE WITNESS:** -- C2-17-0001, with a contact number of
05:25PM 13 716-846-6035, and an email for Mr. and Mrs. Hoerner, Sean,
05:25PM 14 smhoerner@dea.usdoj.gov.

05:25PM 15 **BY MR. TRIPI:**

05:25PM 16 Q. And what's the subject of this email?

05:25PM 17 A. DARTS deconfliction.

05:25PM 18 Q. And then there's a bunch of numbers and the case number?

05:25PM 19 A. Correct, the C2-17-0001.

05:25PM 20 Q. Now, sticking on the topic of Mr. Francoforte, whose
05:25PM 21 number was 716-866-2687, we just looked at a moment ago --

05:26PM 22 **MR. TRIPI:** We can take that down, Ms. Champoux.

05:26PM 23 **BY MR. TRIPI:**

05:26PM 24 Q. -- have you reviewed Government Exhibit 358?

05:26PM 25 A. Yes, I have.

05:26PM 1 Q. Are those phone records pertaining to Mr. Bongiovanni's
05:26PM 2 work phone from December 2013 through January 2019?

05:26PM 3 A. I believe they might be November of 2013 to January '19.
05:26PM 4 That would encompass December.

05:26PM 5 Q. And those are in evidence this case, correct?

05:26PM 6 A. Correct, stipulation.

05:26PM 7 Q. Based upon your review of those phone records, did
05:26PM 8 Special Agent Bongiovanni have phone contact with
05:26PM 9 Mr. Francoforte during that window of time?

05:26PM 10 A. Yes.

05:26PM 11 Q. Approximately how many times?

05:26PM 12 A. 50 times, I think that's approximately, or might be
05:26PM 13 exactly 50, over that period of December 2013 up until
05:26PM 14 January of 2019. Might have been December of 2019. But 50
05:27PM 15 times.

05:27PM 16 Q. Okay. Just keep your voice up just a little bit.

05:27PM 17 A. Certainly.

05:27PM 18 Q. Sometimes it's hard to hear you.

05:27PM 19 **MR. TRIPI:** And, Ms. Champoux, can you pull up
05:27PM 20 Exhibit 393 side by side with Government Exhibit 310AT, that
05:27PM 21 record number 16.

05:27PM 22 Can you zoom in on record 16 for us? You've got to
05:27PM 23 go lower.

05:27PM 24 **BY MR. TRIPI:**

05:27PM 25 Q. In Exhibit 39 on the left there, do you see

05:27PM 1 Mr. Francoforte?

05:27PM 2 A. Yes, I do.

05:27PM 3 Q. Can you tap him? Okay.

05:27PM 4 **MR. TRIPI:** May the record reflect he's indicating

05:27PM 5 Mr. Francoforte.

05:27PM 6 **BY MR. TRIPI:**

05:27PM 7 Q. Is that the person whose left hand was on

05:27PM 8 Mr. Todaro Sr.'s shoulder?

05:27PM 9 A. Yes, it is.

05:27PM 10 Q. And the jury has seen this earlier in this trial?

05:27PM 11 A. That's correct.

05:28PM 12 **MR. TRIPI:** Okay. We can take this down.

05:28PM 13 **BY MR. TRIPI:**

05:28PM 14 Q. And based upon your review of evidence seized from

05:28PM 15 Mr. Bongiovanni's house, was there also a wedding card from

05:28PM 16 Mr. Francoforte to Mr. Bongiovanni?

05:28PM 17 A. Yes, there was.

05:28PM 18 Q. Okay. One moment. I'm going to hand you up what's in

05:28PM 19 evidence as 100D-2, it was looked at earlier in the trial,

05:29PM 20 but it was a while ago. This is in evidence. Can you read

05:29PM 21 the note that's contained in handwriting at the bottom?

05:29PM 22 A. Government Exhibit 100D-2. It's a wedding card. Love

05:29PM 23 Hot Dog and Lynn, honored to be your friends. Many years of

05:29PM 24 happiness.

05:29PM 25 Q. And that was a card to Mr. Bongiovanni in his house?

05:29PM 1 A. Yes, recovered in the search warrant on June 6th of 2019
05:29PM 2 at the residence.

05:29PM 3 **MR. TRIPI:** All right. Judge, I'm going to move to
05:29PM 4 another topic. I see it's 5:29. Is this good?

05:29PM 5 **THE COURT:** Good, so a minute early.

05:29PM 6 Please remember my instructions. Don't communicate
05:29PM 7 about the case with anyone. Don't use tools of technology to
05:29PM 8 learn anything about the case or to communicate about the
05:29PM 9 case. Don't read, or listen to, or watch any news coverage of
05:29PM 10 the case while the case is in progress. And don't make up
05:29PM 11 your mind until you start deliberating, which hopefully will
05:30PM 12 not be too much longer.

05:30PM 13 Everybody drive carefully. Get a good night's sleep.
05:30PM 14 And we'll see you here as close to 9:00 as you can be here
05:30PM 15 tomorrow morning. Thanks very much.

05:30PM 16 (Jury excused at 5:30 p.m.)

05:30PM 17 **THE COURT:** Okay. Anything we need to do before we
05:30PM 18 break?

05:30PM 19 **MR. TRIPI:** Not from the government, Judge.

05:30PM 20 **MR. FOTI:** No, Judge. We'll get an updated list of
05:30PM 21 who the potential witnesses would be for -- for Wednesday.

05:30PM 22 **THE COURT:** Right. But we're just gonna -- we're
05:30PM 23 gonna finish Mr. Burns tomorrow, the government's going to
05:30PM 24 rest, the defense is going to make motions, we're going to do
05:31PM 25 our charge conference.

05:31PM 1 **MR. TRIPI:** That sounds like a plan.

05:31PM 2 **THE COURT:** Okay. Great.

05:31PM 3 And then on Wednesday, we're either gonna sum up, or
05:31PM 4 you're going to present your case?

05:31PM 5 **MR. FOTI:** Yes.

05:31PM 6 **THE COURT:** Great. Okay. Thanks.

05:31PM 7 **MR. TRIPI:** Thank you, Judge.

05:31PM 8 **THE COURT:** Mr. Cooper, you have something?

05:31PM 9 **MR. COOPER:** One -- I have a logistical question.

05:31PM 10 When -- when are we gonna know -- I guess what's the deadline
05:31PM 11 when we're gonna know if we're summing Wednesday or Thursday?

05:31PM 12 When do we decide on the defense case? Not me, when do
05:31PM 13 they --

05:31PM 14 **MR. FOTI:** I think it depends what time we finish
05:31PM 15 with Mr. Burns. But I -- as soon as we finish that, I think
05:31PM 16 we're going meet with Mr. Gerace and have a conversation about
05:31PM 17 his testimony. And then before the charge conference, I would
05:31PM 18 expect to have an answer.

05:31PM 19 **THE COURT:** Great. That's fair.

05:31PM 20 **MR. COOPER:** Got it. That's perfect.

05:31PM 21 **THE COURT:** Thank you, all, very much.

05:31PM 22 (Proceedings concluded at 5:31 p.m.)

05:31PM 23 * * * * *

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2 **CERTIFICATE OF REPORTER**

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4 In accordance with 28, U.S.C., 753(b), I
5 certify that these original notes are a true and correct
6 record of proceedings in the United States District Court for
7 the Western District of New York on December 16, 2024.

8

9

10 s/ Ann M. Sawyer
11 Ann M. Sawyer, FCRR, RPR, CRR
Official Court Reporter
U.S.D.C., W.D.N.Y.

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11
12 E X H I B I T P A G E
13 GOV Exhibit 100A.1-1 13

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